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EXPERIAN INFORMATION SOLUTIONS, INC.
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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION
11

12 ROANE HOLMAN, NARCISCO
13 NAVARRO HERNANDEZ and MIGUEL A.
ALVAREZ
14 and all others similarly situated,

15 Plaintiffs,

16 v.

17 EXPERIAN INFORMATION SOLUTIONS,
INC.,

18 Defendant.
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Case No. CV-11-00180-CW

**EXPERIAN INFORMATION
SOLUTIONS, INC.'S OBJECTIONS
TO PLAINTIFFS' NOTICE OF
DEPOSITION OF EXPERIAN
INFORMATION SOLUTIONS, INC.
PURSUANT TO RULE 30(b)(6)**

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 Please take notice that Defendant Experian Information Solutions, Inc. ("Experian")
3 hereby objects to Plaintiffs' Notice of Deposition of Experian ("Notice") pursuant to Rule
4 30(b)(6).

5 **GENERAL OBJECTIONS**

6 A. Time: Experian objects that the Notice is defective in that it improperly seeks to
7 require Experian's representative to appear for deposition only fourteen days after Plaintiffs
8 noticed the deposition. Because of the complexity of the deposition topics proposed in the
9 Notice, fourteen days is insufficient notice.

10 B. Duplicative Testimony: Experian objects to the Notice, and each topic listed
11 therein, to the extent it calls for testimony and information that is duplicative of the testimony
12 previously given in this case by Experian's other witnesses.

13 C. Privileges: Experian objects to the Notice, and each topic listed therein, to the
14 extent it seeks testimony or information protected from discovery by the attorney-client
15 communication privilege, the attorney work-product doctrine, the privilege afforded financial
16 records, and the right of privacy of any person or entity, including without limitation that
17 contained in any applicable privilege or protection. Experian claims such privileges and invokes
18 such protection.

19 D. Trade Secrets: Experian objects to the Notice, and each topic listed therein, to the
20 extent it seeks testimony or information that is confidential, proprietary, or otherwise
21 commercially sensitive information or trade secrets.

22 E. Expert Testimony: Experian objects to the Notice, and each topic listed therein, to
23 the extent it calls for testimony and information that is or may be the subject of expert witness
24 testimony.

25 F. Right to Supplement: Experian has responded and objected to the Notice based
26 upon its best, good faith understanding and interpretation of each topic therein. Accordingly, if
27 Plaintiffs subsequently assert a different interpretation than that presently understood by
28 Experian, or if other information becomes available, Experian reserves the right to supplement or

1 amend these responses and objections.

2 G. Experian incorporates the foregoing General Objections and limitations into each
3 of the following specific responses, which responses are made subject to, and without waiver of,
4 these General Objections and limitations.

5 **SPECIFIC OBJECTIONS TO DEPOSITION TOPICS**

6 **Deposition Topic No. 1**

7 Authenticate and explain the documents that Experian has produced in this case. For each
8 category of documents, Experian will be asked to

9 a. Explain what the documents are, how they were prepared and kept and what they are
10 used for.

11 b. State whether there are any other documents in Experian's possession, custody or
12 control that are responsive to the document demand, and if so, identify those additional
13 documents and explain why they have not been produced.

14 **Objections to Deposition Topic No. 1**

15 In addition to the General Objections above, which are incorporated herein by this
16 reference, Experian objects that the topic is unduly burdensome and oppressive in that Experian
17 has produced over 500 pages of documents and is continuing to supplement its document
18 production based upon a targeted search of documents from seven additional custodians. The
19 persons knowledgeable about these documents with the detail requested in subsection (a) would
20 be the individuals listed on the documents themselves. With respect to this topic's request for
21 testimony relating to how unspecified documents were prepared and whether additional
22 documents exist, this request is unduly burdensome and seeks information that would be better
23 sought through interrogatories or requests for documents.

24 Experian also objects that, to the extent that this topic seeks information relating to post-
25 litigation matters, including matters relating to the time period after Experian stopped providing
26 consumer credit information to Finex in January 2011, this topic seeks information that neither is
27 relevant nor reasonably calculated to lead to the discovery of admissible evidence and/or that
28 relates to subsequent remedial measures.

1 Experian also objects that this topic (i) does not describe with reasonable particularity the
2 matters on which examination is requested; (ii) is overly broad, oppressive, and unduly
3 burdensome in that it seeks privileged information, including information reflected in Experian's
4 Privilege Log; and (iii) seeks information protected by the attorney-client communication
5 privilege and protected attorney work product doctrine. Experian also objects that the phrase
6 "what they are used for" is vague and unintelligible and does not describe any subject matter with
7 reasonable particularity.

8 Subject to and without waiving the General Objections and the objections stated above,
9 Experian responds as follows: Experian is prepared to meet and confer with plaintiffs' counsel to
10 discuss ways to narrow this topic to address Experian's objections.

11 **Deposition Topic No. 2**

12 Experian will be asked to explain in detail its Supplemental Responses to Plaintiffs'
13 Second Set of Interrogatories and to identify the witnesses, documents and facts that support
14 those responses.

15 **Objections to Deposition Topic No. 2**

16 In addition to the General Objections above, which are incorporated herein by this
17 reference, Experian objects to the topic on the grounds and to the extent that it: (i) is unduly
18 burdensome and seeks information that would be better sought through interrogatories or requests
19 for documents; (ii) does not describe with reasonable particularity the matters on which
20 examination is requested; and (iii) is overly broad, oppressive, and unduly burdensome in that,
21 among other things, it seeks "witnesses, documents and facts" already provided in Experian's
22 Supplemental Responses to Plaintiff's Second Set of Interrogatories themselves. Experian also
23 objects to the topic on the grounds that it seeks information protected by the attorney-client
24 communication privilege and protected attorney work product doctrine, including but not limited
25 to privileged information relating to the preparation and drafting of discovery responses by
26 attorneys.

1 Subject to and without waiving the General Objections and the objections stated above,
 2 Experian responds as follows: Experian is prepared to meet and confer with plaintiffs' counsel to
 3 discuss ways to narrow this topic to address Experian's objections.

4 **Deposition Topic No. 3**

5 Experian will be asked to explain its statements in its October 7, 2007 petition for
 6 rehearing in *Pintos v. Pacific Creditors Association* and in particular, its statements on pages 1
 7 and 14-15 of that petition concerning the significance of the *Pintos* decision.

8 **Objections to Deposition Topic No. 3**

9 In addition to the General Objections above, which are incorporated herein by this
 10 reference, Experian objects that this topic fails to describe the information it is seeking with
 11 reasonable particularity in that the phrase "statements on pages 1 and 14-15" is ambiguous as to
 12 which of the many statements on pages 1 and 14-15 are referenced by the topic. Experian also
 13 objects that this topic seeks information that is protected from disclosure by the attorney-client
 14 communication privilege and the attorney work product doctrine. Although the petition for
 15 rehearing in *Pintos v. Pacific Creditors Association* is a public document, the attorney-client
 16 communication privilege and the attorney work product doctrine protect from disclosure the work
 17 product and legal assessment that went into the document. Experian also objects that: (i) this
 18 topic is unduly burdensome and oppressive; and (ii) this topic seeks information that is not
 19 relevant to the subject matter of this litigation and is not reasonably calculated to lead to the
 20 discovery of admissible evidence.

21 Subject to and without waiving the General Objections and the objections stated above,
 22 Experian responds as follows: Experian is prepared to meet and confer with plaintiffs' counsel to
 23 discuss ways to narrow this topic to address Experian's objections.

24 **Deposition Topic No. 4**

25 Experian will be asked to identify each person who made any decision about how
 26 Experian would respond to the September 21, 2007 *Pintos* decision, what that person decided and
 27 when the decision was made.

1 **Objections to Deposition Topic No. 4**

2 In addition to the General Objections above, which are incorporated herein by this
 3 reference, Experian objects that it relied on legal counsel to interpret the *Pintos* ruling, and thus
 4 this topic improperly seeks information that is protected by the attorney work product doctrine
 5 and the attorney-client communication privilege. Experian also objects that: (i) this topic is
 6 unduly burdensome and oppressive in that, among other things, it is duplicative of information
 7 already provided to Plaintiffs and seeks information that would be better sought through
 8 interrogatories or requests for documents (*See* Experian's Response to Plaintiffs' Third Set of
 9 Interrogatories, Response to Interrogatory No. 19); (ii) this topic is not limited to a relevant
 10 category of subscriber; (iii) this topic seeks information that is not relevant to the subject matter
 11 of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence;
 12 and (iv) the topic fails to describe the information it is seeking with reasonable particularity.

13 Experian also objects that, to the extent that this topic seeks information relating to post-
 14 litigation matters, including matters relating to the time period after Experian stopped providing
 15 consumer credit information to Finex in January 2011, this topic seeks information that neither is
 16 relevant nor reasonably calculated to lead to the discovery of admissible evidence and/or that
 17 relates to subsequent remedial measures.

18 Subject to and without waiving the General Objections and the objections stated above,
 19 Experian responds as follows: Experian is prepared to meet and confer with plaintiffs' counsel to
 20 discuss ways to narrow this topic to address Experian's objections.

21 **Deposition Topic No. 5**

22 Experian will be asked explain what it did to train its Membership Department employees
 23 between September 2007 the end [sic] of 2011 concerning the *Pintos* case.

24 a. Without limiting the foregoing description of this topic, Experian will be asked to
 25 explain in detail what, if any, training it gave to its Membership Department employees about the
 26 "important category of 'permissible purposes' " that *Pintos* had removed from the FCRA, the
 27 content of that training, when it was given and the employees who received it. (The quoted
 28 language is from the petition for rehearing dated October 7, 2007.)

1 b. Experian will be asked to identify all documents that constitute, reflect or mention all
2 training provided to those employees.

3 c. Experian will be asked to explain why it decided not to provide more training about
4 Pintos to its Membership Department employees during this period and who was responsible for
5 that decision.

6 **Objections to Deposition Topic No. 5**

7 In addition to the General Objections above, which are incorporated herein by this
8 reference, Experian objects that this topic seeks cumulative testimony and is unduly burdensome
9 in that plaintiffs have already deposed the head of the Membership Department, Mr. Peter Henke,
10 on topics relating to the training that the Membership Department received after the various
11 *Pintos* decisions were decided. Experian also objects that this topic seeks information that is
12 protected from disclosure by the attorney-client communication privilege and the attorney work
13 product doctrine. The attorney-client communication privilege and attorney work product
14 doctrine protect from disclosure the underlying assessment of Experian's legal obligations and
15 legally required compliance procedures following the various *Pintos* decisions and the
16 development of training based on that assessment.

17 Experian also objects that this topic seeks information that is neither relevant to this action
18 nor reasonably calculated to lead to the discovery of admissible evidence because, among other
19 things, it seeks information regarding the reasons why Experian decided not to take particular
20 actions in response to the various *Pintos* decisions. Such information is irrelevant under *Safeco v.*
21 *Burr*, 551 U.S. 47 (2007), where the Supreme Court made clear that the determination of whether
22 a defendant willfully violated the FCRA depends on an objective test—i.e., whether the
23 defendant's conduct raised an "unjustifiably high risk" of violating the statute. 551 U.S. at 70.
24 Thus, evidence of the defendant's subjective intent or belief is irrelevant to the issue of whether
25 the defendant acted willfully. *Id.* at n. 20.

26 Experian also objects that, to the extent that this topic seeks information relating to post-
27 litigation matters, including matters relating to the time period after Experian stopped providing
28 consumer credit information to Finex in January 2011, this topic seeks information that neither is

1 relevant nor reasonably calculated to lead to the discovery of admissible evidence and/or that
 2 relates to subsequent remedial measures.

3 Experian also objects that: (i) this topic does not describe with reasonable particularity the
 4 matters on which examination is requested; (ii) this topic is unduly burdensome and oppressive;
 5 and (iii) this topic seeks information that is not relevant to the subject matter of this litigation and
 6 is not reasonably calculated to lead to the discovery of admissible evidence, as plaintiffs' use of
 7 the phrases "important category of 'permissible purposes'" and "removed from the FCRA," refer
 8 to Experian's October 7, 2007 petition for rehearing, where they are used in reference to non-
 9 towing matters such as child support payments and tax collection, neither of which is relevant to
 10 the subject matter of this litigation. Experian also objects that this topic seeks information that
 11 would be better sought through interrogatories or requests for documents.

12 Subject to and without waiving the General Objections and the objections stated above,
 13 Experian responds as follows: Experian is prepared to meet and confer with plaintiffs' counsel to
 14 discuss ways to narrow this topic to address Experian's objections.

15 **Deposition Topic No. 6**

16 Experian will be asked to explain what training on *Pintos*, if any, it has provided to its
 17 Membership Department employees since the end of 2011 and whether it plans to provide them
 18 with training on the permissible purpose limitations of *Pintos* and who is responsible for those
 19 decisions.

20 **Objections to Deposition Topic No. 6**

21 In addition to the General Objections above, which are incorporated herein by this
 22 reference, Experian objects that plaintiffs have already deposed the head of the Membership
 23 Department, Mr. Peter Henke, on topics relating to the training that the Membership Department
 24 received after the various *Pintos* decisions. Experian also objects that this topic seeks information
 25 that is protected from disclosure by the attorney-client communication privilege and the attorney
 26 work product doctrine. The attorney-client communication privilege and attorney work product
 27 doctrine protect from disclosure the underlying assessment of Experian's legal obligations and
 28

1 legally required compliance procedures following the various *Pintos* decisions and the
2 development of training based on that assessment.

3 Experian also objects that, to the extent that this topic seeks information relating to post-
4 litigation matters, including matters relating to the time period after Experian stopped providing
5 consumer credit information to Finex in January 2011, this topic seeks information that neither is
6 relevant nor reasonably calculated to lead to the discovery of admissible evidence and/or that
7 relates to subsequent remedial measures.

8 Experian also objects that: (i) this topic does not describe with reasonable particularity the
9 matters on which examination is requested; (ii) this topic is unduly burdensome and oppressive;
10 and (iii) this topic seeks information that is not relevant to the subject matter of this litigation and
11 is not reasonably calculated to lead to the discovery of admissible evidence. Experian also
12 objects that this topic seeks information that would be better sought through interrogatories or
13 requests for documents.

14 Subject to and without waiving the General Objections and the objections stated above,
15 Experian responds as follows: Experian is prepared to meet and confer with plaintiffs' counsel to
16 discuss ways to narrow this topic to address Experian's objections.

17 **Deposition Topic No. 7**

18 Experian will be asked to whether, at any time since the 2007 *Pintos* opinion, it changed
19 its Membership Application form to require a collection agency applicant to provide detailed
20 information about the accounts it collects. If Experian has made any such changes in its
21 Membership Application form, it will be asked to state when and why the changes were made and
22 to describe them in detail and to identify the people who decided to make those changes. If it has
23 not made any such changes in the Membership Application form, it will be asked to explain why
24 it has not made any such changes.

25 **Objections to Deposition Topic No. 7**

26 In addition to the General Objections above, which are incorporated herein by this
27 reference, Experian objects that this topic seeks information that is protected from disclosure by
28 the attorney-client communication privilege and the attorney work product doctrine. Although

1 the Membership Application form is not privileged, the attorney-client communication privilege
2 and attorney work product doctrine protect from disclosure the underlying assessment of
3 Experian's legal obligations and legally required compliance procedures following the various
4 *Pintos* decisions. Any inquiry as to why certain changes were made or not made in the wake of
5 the various *Pintos* decisions necessarily impinges on these privileged attorney-client
6 communications and/or documents and mental impressions that are protected by the work product
7 doctrine.

8 Experian also objects that this topic seeks information that is neither relevant to this action
9 nor reasonably calculated to lead to the discovery of admissible evidence because, among other
10 things, it seeks information regarding the reasons why Experian decided to take, or not to take,
11 particular actions in response to the various *Pintos* decisions. Such information is irrelevant
12 under *Safeco v. Burr*, 551 U.S. 47 (2007), where the Supreme Court made clear that the
13 determination of whether a defendant willfully violated the FCRA depends on an objective test—
14 i.e., whether the defendant's conduct raised an "unjustifiably high risk" of violating the statute.
15 551 U.S. at 70. Thus, evidence of the defendant's subjective intent or belief is irrelevant to the
16 issue of whether the defendant acted willfully. *Id.* at n. 20.

17 Experian also objects that, to the extent that this topic seeks information relating to post-
18 litigation matters, including matters relating to the time period after Experian stopped providing
19 consumer credit information to Finex in January 2011, this topic seeks information that neither is
20 relevant nor reasonably calculated to lead to the discovery of admissible evidence and/or that
21 relates to subsequent remedial measures.

22 Experian also objects that: (i) this topic is unduly burdensome and oppressive; and (ii) this
23 topic seeks information that is not relevant to the subject matter of this litigation and is not
24 reasonably calculated to lead to the discovery of admissible evidence. Experian also objects that
25 plaintiffs have already deposed the head of the Membership Department, Mr. Peter Henke, on
26 topics relating to the Membership Department procedures, including changes to those procedures
27 following the various *Pintos* decisions.
28

1 Subject to and without waiving the General Objections and the objections stated above,
 2 Experian responds as follows: Experian is prepared to meet and confer with plaintiffs' counsel to
 3 discuss ways to narrow this topic to address Experian's objections.

4 **Deposition Topic No. 8**

5 Experian will be asked to whether, at any time since the 2007 *Pintos* opinion, it changed
 6 its Customer Profile Document checklist (see EIS 132-135) to require a more specific statement
 7 of the types of collections being handled by a collection agency subscriber. If Experian has made
 8 any such changes in its Customer Profile Document, it will be asked to state when and why the
 9 changes were made and to describe them in detail and to identify the people who decided to make
 10 those changes. If it has not made any such changes in the Customer Profile Document, it will be
 11 asked to explain why it has not made any such changes.

12 **Objections to Deposition Topic No. 8**

13 In addition to the General Objections above, which are incorporated herein by this
 14 reference, Experian objects that this topic seeks information that is protected from disclosure by
 15 the attorney-client communication privilege and the attorney work product doctrine. Although
 16 the Customer Profile Document form is not privileged, the attorney-client communication
 17 privilege and attorney work product doctrine protect from disclosure the underlying assessment of
 18 Experian's legal obligations and legally required compliance procedures following the various
 19 *Pintos* decisions. Any inquiry as to why certain changes were made or not made in the wake of
 20 the various *Pintos* decisions necessarily impinges on these privileged attorney-client
 21 communications and seeks information protected from disclosure by the attorney work product
 22 doctrine.

23 Experian also objects that this topic seeks information that is neither relevant to this action
 24 nor reasonably calculated to lead to the discovery of admissible evidence because, among other
 25 things, it seeks information regarding the reasons why Experian decided to take, or not to take,
 26 particular actions in response to the various *Pintos* decisions. Such information is irrelevant
 27 under *Safeco v. Burr*, 551 U.S. 47 (2007), where the Supreme Court made clear that the
 28 determination of whether a defendant willfully violated the FCRA depends on an objective test—

1 i.e., whether the defendant's conduct raised an "unjustifiably high risk" of violating the statute.
2 551 U.S. at 70. Thus, evidence of the defendant's subjective intent or belief is irrelevant to the
3 issue of whether the defendant acted willfully. *Id.* at n. 20.

4 Experian also objects that, to the extent that this topic seeks information relating to post-
5 litigation matters, including matters relating to the time period after Experian stopped providing
6 consumer credit information to Finex in January 2011, this topic seeks information that neither is
7 relevant nor reasonably calculated to lead to the discovery of admissible evidence and/or that
8 relates to subsequent remedial measures.

9 Experian also objects that: (i) this topic is unduly burdensome and oppressive; and (ii) this
10 topic seeks information that is not relevant to the subject matter of this litigation and is not
11 reasonably calculated to lead to the discovery of admissible evidence. Experian also objects that
12 plaintiffs have already deposed the head of the Membership Department, Mr. Peter Henke, on
13 topics relating to the Membership Department procedures, including changes to those procedures
14 following the various *Pintos* decisions.

15 Subject to and without waiving the General Objections and the objections stated above,
16 Experian responds as follows: Experian is prepared to meet and confer with plaintiffs' counsel to
17 discuss ways to narrow this topic to address Experian's objections.

18 **Deposition Topic No. 9**

19 Experian will be asked to whether, at any time since the 2007 *Pintos* opinion, it has
20 required its Membership Department analysts to ask new clients in the collections industry to
21 describe in detail the types of collections they were handling. If Experian has made any such
22 changes in the procedures for the Membership Department analysts, it will be asked to state when
23 and why the changes were made and to describe them in detail and to identify the people who
24 decided to make those changes. If it has not made any such changes, it will be asked to explain
25 why it has not made any such changes.

26 **Objections to Deposition Topic No. 9**

27 In addition to the General Objections above, which are incorporated herein by this
28 reference, Experian objects that this topic seeks information that is protected from disclosure by

1 the attorney-client communication privilege and the attorney work product doctrine. The
2 attorney-client communication privilege and attorney work product doctrine protect from
3 disclosure the underlying assessment of Experian's legal obligations and legally required
4 compliance procedures following the various *Pintos* decisions and the development of any change
5 to those procedures based on that assessment by Experian's legal team. Any inquiry as to why
6 certain changes were made or not made in the wake of the various *Pintos* decisions necessarily
7 impinges on these privileged attorney-client communications and seeks information protected
8 from disclosure by the attorney work product doctrine.

9 Experian also objects that this topic seeks information that is neither relevant to this action
10 nor reasonably calculated to lead to the discovery of admissible evidence because, among other
11 things, it seeks information regarding the reasons why Experian decided to take, or not to take,
12 particular actions in response to the various *Pintos* decisions. Such information is irrelevant
13 under *Safeco v. Burr*, 551 U.S. 47 (2007), where the Supreme Court made clear that the
14 determination of whether a defendant willfully violated the FCRA depends on an objective test—
15 i.e., whether the defendant's conduct raised an "unjustifiably high risk" of violating the statute.
16 551 U.S. at 70. Thus, evidence of the defendant's subjective intent or belief is irrelevant to the
17 issue of whether the defendant acted willfully. *Id.* at n. 20.

18 Experian also objects that, to the extent that this topic seeks information relating to post-
19 litigation matters, including matters relating to the time period after Experian stopped providing
20 consumer credit information to Finex in January 2011, this topic seeks information that neither is
21 relevant nor reasonably calculated to lead to the discovery of admissible evidence and/or that
22 relates to subsequent remedial measures.

23 Experian also objects that: (i) this topic is unduly burdensome and oppressive; and (ii) this
24 topic seeks information that is not relevant to the subject matter of this litigation and is not
25 reasonably calculated to lead to the discovery of admissible evidence. Experian also objects that
26 plaintiffs have already deposed the head of the Membership Department, Mr. Peter Henke, on
27 topics relating to the Membership Department procedures, including changes to those procedures
28 following the various *Pintos* decisions.

1 Subject to and without waiving the General Objections and the objections stated above,
2 Experian responds as follows: Experian is prepared to meet and confer with plaintiffs' counsel to
3 discuss ways to narrow this topic to address Experian's objections.

4 **Deposition Topic No. 10**

5 Experian will be asked to whether, at any time since the 2007 *Pintos* opinion, it has
6 instructed its Membership Department to require collection agency applicants to provide it with
7 samples of the debts they were collecting. If Experian has instructed its Membership Department
8 to require collection agency applicants to provide it with samples of the debts they were
9 collecting, it will be asked to state when and why the changes were made and to describe them in
10 detail and to identify the people who decided to make those changes. If it has not made any such
11 changes, it will be asked to explain why it has not made any such changes.

12 **Objections to Deposition Topic No. 10**

13 In addition to the General Objections above, which are incorporated herein by this
14 reference, Experian objects that this topic seeks information that is protected from disclosure by
15 the attorney-client communication privilege and the attorney work product doctrine. The
16 attorney-client communication privilege and attorney work product doctrine protect from
17 disclosure the underlying assessment of Experian's legal obligations and legally required
18 compliance procedures following the various *Pintos* decisions and the development of any change
19 to those procedures based on that assessment by Experian's legal team. Any inquiry as to why
20 certain changes were made or not made in the wake of the various *Pintos* decisions necessarily
21 impinges on these privileged attorney-client communications and/or documents and mental
22 impressions that are protected by the work product doctrine.

23 Experian also objects that this topic seeks information that is neither relevant to this action
24 nor reasonably calculated to lead to the discovery of admissible evidence because, among other
25 things, it seeks information regarding the reasons why Experian decided to take, or not to take,
26 particular actions in response to the various *Pintos* decisions. Such information is irrelevant
27 under *Safeco v. Burr*, 551 U.S. 47 (2007), where the Supreme Court made clear that the
28 determination of whether a defendant willfully violated the FCRA depends on an objective test—

1 i.e., whether the defendant's conduct raised an "unjustifiably high risk" of violating the statute.
2 551 U.S. at 70. Thus, evidence of the defendant's subjective intent or belief is irrelevant to the
3 issue of whether the defendant acted willfully. *Id.* at n. 20.

4 Experian also objects that, to the extent that this topic seeks information relating to post-
5 litigation matters, including matters relating to the time period after Experian stopped providing
6 consumer credit information to Finex in January 2011, this topic seeks information that neither is
7 relevant nor reasonably calculated to lead to the discovery of admissible evidence and/or that
8 relates to subsequent remedial measures.

9 Experian also objects that: (i) this topic is unduly burdensome and oppressive; and (ii) this
10 topic seeks information that is not relevant to the subject matter of this litigation and is not
11 reasonably calculated to lead to the discovery of admissible evidence. Experian also objects that
12 plaintiffs have already deposed the head of the Membership Department, Mr. Peter Henke, on
13 topics relating to the Membership Department procedures, including changes to those procedures
14 following the various *Pintos* decisions.

15 Subject to and without waiving the General Objections and the objections stated above,
16 Experian responds as follows: Experian is prepared to meet and confer with plaintiffs' counsel to
17 discuss ways to narrow this topic to address Experian's objections.

18 **Deposition Topic No. 11**

19 Experian will be asked to explain whether, at any time since the 2007 *Pintos* decision, it
20 has revised its site inspection checklist so that the site inspector asks the prospective subscriber to
21 describe in detail and/or provide examples of the types of debts that prospective new subscriber
22 was collecting. If Experian has made any such changes to its site inspection checklist, it will be
23 asked to state when and why the changes were made and to describe them in detail and to identify
24 the people who decided to make those changes. If it has not made any such changes, it will be
25 asked to explain why it has not made any such changes.

26 **Objections to Deposition Topic No. 11**

27 In addition to the General Objections above, which are incorporated herein by this
28 reference, Experian objects that this topic seeks information that is protected from disclosure by

1 the attorney-client communication privilege and the attorney work product doctrine. Although
2 the confidential site inspection form is not privileged, the attorney-client communication privilege
3 and attorney work product doctrine protect from disclosure the underlying assessment of
4 Experian's legal obligations and legally required compliance procedures following the various
5 *Pintos* decisions. Any inquiry as to why certain changes were made or not made in the wake of
6 the various *Pintos* decisions necessarily impinges on these privileged attorney-client
7 communications and seeks information protected from disclosure by the attorney work product
8 doctrine.

9 Experian also objects that this topic seeks information that is neither relevant to this action
10 nor reasonably calculated to lead to the discovery of admissible evidence because, among other
11 things, it seeks information regarding the reasons why Experian decided to take, or not to take,
12 particular actions in response to the various *Pintos* decisions. Such information is irrelevant
13 under *Safeco v. Burr*, 551 U.S. 47 (2007), where the Supreme Court made clear that the
14 determination of whether a defendant willfully violated the FCRA depends on an objective test—
15 i.e., whether the defendant's conduct raised an "unjustifiably high risk" of violating the statute.
16 551 U.S. at 70. Thus, evidence of the defendant's subjective intent or belief is irrelevant to the
17 issue of whether the defendant acted willfully. *Id.* at n. 20.

18 Experian also objects that, to the extent that this topic seeks information relating to post-
19 litigation matters, including matters relating to the time period after Experian stopped providing
20 consumer credit information to Finex in January 2011, this topic seeks information that neither is
21 relevant nor reasonably calculated to lead to the discovery of admissible evidence and/or that
22 relates to subsequent remedial measures.

23 Experian also objects that: (i) this topic is unduly burdensome and oppressive; and (ii) this
24 topic seeks information that is not relevant to the subject matter of this litigation and is not
25 reasonably calculated to lead to the discovery of admissible evidence. Experian also objects that
26 plaintiffs have already deposed the head of the Membership Department, Mr. Peter Henke, on
27 topics relating to the Membership Department procedures, including changes to those procedures
28 following the various *Pintos* decisions.

1 Subject to and without waiving the General Objections and the objections stated above,
 2 Experian responds as follows: Experian is prepared to meet and confer with plaintiffs' counsel to
 3 discuss ways to narrow this topic to address Experian's objections.

4 **Deposition Topic No. 12**

5 Experian will be asked to explain why it sent out its "Important Notice" about the *Pintos*
 6 case to collection industry subscribers in 2010. It will also be asked whether it used language
 7 from Trans Union's "Important Notice" (Exh 68) when it drafted its own "Important Notice," and
 8 if so, where, how, who and when Experian obtained that Trans Union document.

9 **Objections to Deposition Topic No. 12**

10 In addition to the General Objections above, which are incorporated herein by this
 11 reference, Experian objects that this topic seeks information that is protected from disclosure by
 12 the attorney-client communication privilege and the attorney work product doctrine. Although
 13 the Important Notice is not privileged, the attorney-client communication privilege and attorney
 14 work product doctrine protect from disclosure the underlying assessment of Experian's legal
 15 obligations and legally required compliance procedures following the various *Pintos* decisions
 16 and the drafting of the Important Notice by Experian's legal team.

17 Experian also objects that this topic seeks information that is neither relevant to this action
 18 nor reasonably calculated to lead to the discovery of admissible evidence because, among other
 19 things, it seeks information regarding the reasons why Experian decided to take, or not to take,
 20 particular actions in response to the various *Pintos* decisions. Such information is irrelevant
 21 under *Safeco v. Burr*, 551 U.S. 47 (2007), where the Supreme Court made clear that the
 22 determination of whether a defendant willfully violated the FCRA depends on an objective test—
 23 i.e., whether the defendant's conduct raised an "unjustifiably high risk" of violating the statute.
 24 551 U.S. at 70. Thus, evidence of the defendant's subjective intent or belief is irrelevant to the
 25 issue of whether the defendant acted willfully. *Id.* at n. 20.

26 Experian also objects that: (i) this topic is unduly burdensome and oppressive; and (ii) this
 27 topic seeks information that is not relevant to the subject matter of this litigation and is not
 28 reasonably calculated to lead to the discovery of admissible evidence.

1 Subject to and without waiving the General Objections and the objections stated above,
 2 Experian responds as follows: Experian is prepared to meet and confer with plaintiffs' counsel to
 3 discuss ways to narrow this topic to address Experian's objections.

4 **Deposition Topic No. 13**

5 Experian will be asked to explain why it decided to wait until 2010 to send its "Important
 6 Notice" about the *Pintos* case to its collection agency subscribers and who made that decision.

7 **Objections to Deposition Topic No. 13**

8 In addition to the General Objections above, which are incorporated herein by this
 9 reference, Experian objects that this topic seeks information that is protected from disclosure by
 10 the attorney-client communication privilege and the attorney work product doctrine. Although
 11 the Important Notice is not privileged, the attorney-client communication privilege and attorney
 12 work product doctrine protect from disclosure the underlying assessment of Experian's legal
 13 obligations and legally required compliance procedures following the various *Pintos* decisions
 14 and the drafting of the Important Notice by Experian's legal team. Any inquiry as to why certain
 15 changes were made or not made in the wake of the various *Pintos* decisions necessarily impinges
 16 on these privileged attorney-client communications and seeks information protected from
 17 disclosure by the attorney work product doctrine.

18 Experian also objects that this topic seeks information that is neither relevant to this action
 19 nor reasonably calculated to lead to the discovery of admissible evidence because, among other
 20 things, it seeks information regarding the reasons why Experian decided to take, or not to take,
 21 particular actions in response to the various *Pintos* decisions. Such information is irrelevant
 22 under *Safeco v. Burr*, 551 U.S. 47 (2007), where the Supreme Court made clear that the
 23 determination of whether a defendant willfully violated the FCRA depends on an objective test—
 24 i.e., whether the defendant's conduct raised an "unjustifiably high risk" of violating the statute.
 25 551 U.S. at 70. Thus, evidence of the defendant's subjective intent or belief is irrelevant to the
 26 issue of whether the defendant acted willfully. *Id.* at n. 20.

27 Experian also objects that this topic: (i) is unduly burdensome and oppressive; (ii) seeks
 28 information that is not relevant to the subject matter of this litigation and is not reasonably

1 calculated to lead to the discovery of admissible evidence; and (iii) seeks information that would
2 be better sought through interrogatories.

3 Subject to and without waiving the General Objections and the objections stated above,
4 Experian responds as follows: Experian is prepared to meet and confer with plaintiffs' counsel to
5 discuss ways to narrow this topic to address Experian's objections.

6 **Deposition Topic No. 14**

7 Experian will be asked to explain why it sent "Re-Certification" forms to collections
8 clients in 2011, and why it did not send such Re-Certification forms earlier. It will also be asked
9 to identify the persons who made those decisions.

10 **Objections to Deposition Topic No. 14**

11 In addition to the General Objections above, which are incorporated herein by this
12 reference, Experian objects that this topic seeks information that is protected from disclosure by
13 the attorney-client communication privilege and the attorney work product doctrine. Although
14 the re-certification forms are not privileged, the attorney-client communication privilege and
15 attorney work product doctrine protect from disclosure the underlying assessment of Experian's
16 legal obligations and legally required compliance procedures following the various *Pintos*
17 decisions. Any inquiry as to why certain procedures were implemented or were not implemented
18 in the wake of the various *Pintos* decisions necessarily impinges on these privileged attorney-
19 client communications and seeks information protected from disclosure by the attorney work
20 product doctrine.

21 Experian also objects that this topic seeks information that is neither relevant to this action
22 nor reasonably calculated to lead to the discovery of admissible evidence because, among other
23 things, it seeks information regarding the reasons why Experian decided to take, or not to take,
24 particular actions in response to the various *Pintos* decisions. Such information is irrelevant
25 under *Safeco v. Burr*, 551 U.S. 47 (2007), where the Supreme Court made clear that the
26 determination of whether a defendant willfully violated the FCRA depends on an objective test—
27 i.e., whether the defendant's conduct raised an "unjustifiably high risk" of violating the statute.

1 551 U.S. at 70. Thus, evidence of the defendant's subjective intent or belief is irrelevant to the
 2 issue of whether the defendant acted willfully. *Id.* at n. 20.

3 Experian also objects that: (i) this topic is unduly burdensome and oppressive; (ii) this
 4 topic seeks information that is not relevant to the subject matter of this litigation and is not
 5 reasonably calculated to lead to the discovery of admissible evidence; and (iii) seeks information
 6 that would be better sought through interrogatories.

7 Subject to and without waiving the General Objections and the objections stated above,
 8 Experian responds as follows: Experian is prepared to meet and confer with plaintiffs' counsel to
 9 discuss ways to narrow this topic to address Experian's objections.

10 **Deposition Topic No. 15**

11 Experian will be asked to explain why it did not take action following the first *Pintos*
 12 decision in September 2007 until 2010 to notify its collection clients about that decision and its
 13 impact on their use of credit reports.

14 **Objections to Deposition Topic No. 15**

15 In addition to the General Objections above, which are incorporated herein by this
 16 reference, Experian objects that it relied on legal counsel to interpret each of the several *Pintos*
 17 rulings, and thus this topic improperly seeks information that is protected by the attorney work-
 18 product doctrine and the attorney-client communication privilege. Any inquiry as to why certain
 19 procedures were implemented or were not implemented in the wake of the various *Pintos*
 20 decisions necessarily impinges on these privileged attorney-client communications and/or
 21 documents and mental impressions that are protected by the work product doctrine.

22 Experian also objects that this topic seeks information that is neither relevant to this action
 23 nor reasonably calculated to lead to the discovery of admissible evidence because, among other
 24 things, it seeks information regarding the reasons why Experian decided to take, or not to take,
 25 particular actions in response to the various *Pintos* decisions. Such information is irrelevant
 26 under *Safeco v. Burr*, 551 U.S. 47 (2007), where the Supreme Court made clear that the
 27 determination of whether a defendant willfully violated the FCRA depends on an objective test—
 28 i.e., whether the defendant's conduct raised an "unjustifiably high risk" of violating the statute.

1 551 U.S. at 70. Thus, evidence of the defendant's subjective intent or belief is irrelevant to the
 2 issue of whether the defendant acted willfully. *Id.* at n. 20.

3 Experian also objects that: (i) this topic is unduly burdensome and oppressive; (ii) this
 4 topic is not limited to a relevant category of subscriber; (iii) this topic seeks information that is
 5 not relevant to the subject matter of this litigation and is not reasonably calculated to lead to the
 6 discovery of admissible evidence; (iv) this topic seeks information protected by the attorney-
 7 client communication privilege and the attorney work-product doctrine; (v) this topic requires a
 8 legal conclusion; and (vi) the topic fails to describe the information it is seeking with reasonable
 9 particularity.

10 Subject to and without waiving the General Objections and the objections stated above,
 11 Experian responds as follows: Experian is prepared to meet and confer with plaintiffs' counsel to
 12 discuss ways to narrow this topic to address Experian's objections.

13 **Deposition Topic No. 16**

14 Experian will be asked whether any other cases have been brought against it for failing to
 15 comply with the limitations on permissible purposes announced in the *Pintos* case and, if so, to
 16 identify such cases.

17 **Objections to Deposition Topic No. 16**

18 In addition to the General Objections above, which are incorporated herein by this
 19 reference, Experian objects to the topic on the grounds, and to the extent, that it: (i) seeks
 20 information that would be better sought through interrogatories; (ii) does not describe with
 21 reasonable particularity the matters on which examination is requested; (iii) is neither relevant to
 22 the subject matter of the present litigation nor reasonably calculated to lead to the discovery of
 23 admissible evidence; (iv) is overly broad, oppressive, and unduly burdensome; and (v) seeks
 24 information that can be obtained from public sources or that is already known to plaintiffs'
 25 counsel.

26 Experian also objects that, to the extent that this topic seeks information relating to post-
 27 litigation matters, including matters relating to the time period after Experian stopped providing
 28 consumer credit information to Finex in January 2011, this topic seeks information that neither is

1 relevant nor reasonably calculated to lead to the discovery of admissible evidence and/or that
2 relates to subsequent remedial measures.

3 Subject to and without waiving the General Objections and the objections stated above,
4 Experian responds as follows: Experian is prepared to meet and confer with plaintiffs' counsel to
5 discuss ways to narrow this topic to address Experian's objections.

6 **Deposition Topic No. 17**

7 Experian will be asked to state its profits and its net worth as stated in its most recent
8 financial reports.

9 **Objections to Deposition Topic No. 17**

10 In addition to the General Objections above, which are incorporated herein by this
11 reference, Experian objects that the only potential relevance of such a request would be for an
12 award of punitive damages. However, evidence of a defendant's financial condition and other
13 evidence relevant only to punitive damages is not admissible until after a finding of liability. As
14 such, this topic is premature. Experian also objects that this request is oppressive, irrelevant, and
15 not reasonably calculated to lead to the discovery of admissible evidence. Experian objects to
16 this request on the grounds that it seeks confidential financial information. Experian also objects
17 that the term "most recent financial reports" is vague and ambiguous. Experian also objects that
18 this request is oppressive because it fails to identify a relevant time period. Experian will be
19 prepared to lodge appropriate financial statements with the court under seal at the commencement
20 of trial.

21 Dated: March 2, 2012

JONES DAY

22
23 By: 

Michael G. Morgan

24 Attorneys for Defendant
25 EXPERIAN INFORMATION SOLUTIONS,
26 INC.
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